

**Access to Microfinance & Improved Implementation of Policy Reform
(AMIR Program)**

Funded By U.S. Agency for International Development

Investor Road Map: Environmental Clearance

Final Report

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Introduction

This report contains the results of a study and workshop held in Amman, Jordan during January 2000 on Jordan's environmental clearance process. The work was performed under U.S. AID's AMIR program and sponsored by the Investment Promotion Council of Jordan.

The work contained herein is a follow-up to a previous IPC-sponsored workshop held in May, 1999, during which numerous problems with the current practice and procedures used to provide an environmental clearance for proposed investment projects in Jordan were identified. The subsequent January workshop focused on identifying the source of these problems and identifying necessary steps to resolve them.

Several systemic problems have been identified with regard to the environmental clearance process as it is now practiced in Jordan. These are: a lack of transparency from both an institutional (who is responsible for what) and a policy (what are the requirements for environmental clearance) standpoint; overlapping authorities, largely resulting from a lack of clearly established enforcement responsibilities; and the need to streamline the clearance process.

Several recommendations have been developed as part of an Action Plan to address and remedy these systemic problems (see Section V herein). Among the more important of these recommendations is the need to establish concrete regulations that effectively and efficiently implement Jordan's 1995 Environmental Protection Law (the EP law).

To this end, proposed changes the Jordan's Environmental Impact Assessment (EIA) By-law is also enclosed herein. Meeting a country's EIA requirements are, within many if not most countries, one of the most important standards that must be met by investors and is thus a useful first step to take in standardizing Jordan's environmental by-laws. Taken as a whole, the proposed by-law changes will provide for a systematic approach to project evaluations that incorporate important principles of transparency, public involvement, and time limits, all of which are critical elements to resolving the problems investors face with the clearance process in Jordan.

**Table 1. Environmental Clearance Problems
Identified at 5/3/99 workshop**

	Problems (as identified at 5/3/99)	Broader Issue	Status/Recommendations
1.	Decision-making process is not well defined in laws, regulations, and instructions.	Transparency	Mandate that interim/proposed rules be instituted (use existing drafts) wi/6mos.: set 18 mos. Timeline for finalization; follow public process for commenting on proposed rules.
2.	Lack of implementation regulations to guide the activities of junior and mid-level officials.	Resources	Establish programs wi/GCPE to build-up staff-level expertise: establish programs wi/GCPE that collaborate w/academic and non-gov't organizations designed to build expertise and share resources.
3.	There is no legal authority to establish the Investment Projects Approving Committee (IPAC) under MIT	Overlap	This problem has gone away with the creation of the "IAS" within the IPC
4.	No Legal authority to establish CLC under GCPE	Transparency	Licensing facilitation role should not be with the GCPE
5.	The existing legal regime is not implemented properly: GCPE issues environmental clearance and IPC issues license.	Transparency	IPC does not issue license, but rather acts as "facilitator" in licensing process, GCPE role in this process is approved.
6.	GCPE's clearance process is not legally defined and not transparent	Transparency	See #1 above. Also, develop public assistance programs wi GCPE to aid private sector in knowing environmental requirements and procedures for compliance. This is discussed in more detail in Handout #3. Also, regulations should provide for formal written response from clearance officials that fully explains the legal basis on which clearance decisions are made. This improves transparency and maintains public accountability in the clearance process.
7.	Clearance process officials use too much discretion	Transparency/ Resources	Inappropriate use of individual discretion will be addressed through

			the formal establishment of regulations guiding implementation of EP law. Inappropriate use of individual discretion will also be checked by mandate to provide all clearance decisions in writing as outlined in #6 above and through formal training programs dealing with enforcement issues (see # 2 above).
8.	There is no proper (i.e. formal) appeal process by which applicant can appeal a negative decision.	Transparency	Appeal process should be spelled out clearly in regulations to be formalized. The regulations should be clear on what steps trigger the appeal process and requirements for proceeding throughout. Written public guidance should be developed spelling out the appeal process step-by-step for investors.
9.	GCPE's fees connected with clearance process are not legally defined.	Transparency	This also should be specified in interim and final regulations.
10.	Overlap in GCPE/Water Authority /Public Health re drinking water and water drilling (respectively).	Overlap	Consolidate compliance and enforcement wi/independent GCPE (see Handouts # 2 & 3 for more detailed discussion.)
11.	Overlap in GCPE/Water Authority/Public Health re sewerage network.	Overlap	Same as above
12.	Overlap in GCPE/Ministry of Energy and Mineral Resources/ Health re air quality.	Overlap	Same as above
13.	Overlap in GCPE/Ministry of Ag/Nuclear Energy law re harmful and hazardous substances.	Overlap	Same as above
14.	Overlap in GCPE/Bldg. Villages, and Cities law/Public Health law re setting instructions for waste and methods of treatment.	Overlap	Same as above
15.	Legislation does not establish time-limit for issuing environmental	Transparency	Time limits for processing environmental applications are reasonable and appropriate. Detailed

	clearance.		analysis of applications required should be performed and agreement with GCPE should be made as to adequate time limits. It should be clear that the purpose of time limit is to improve the predictability of an application receiving timely responses with regard to the adequacy of the information provided and the acceptability of the project on environmental grounds.
16.	No detailed “business” guidelines.	Transparency	See # 6 above.
17.	Environmental officials lack skills & expertise.	Resources	See # 2 above.
18.	Current fines are too low to result in effective enforcement; same time, officials are too quick to close down factory when “dispute” arises. “Enforcement systems requires more calibrated responses.”	Transparency	Build a strong enforcement program through specifically defined regulations that address effective penalties. In general, closure of operations should occur when failure to do so would present imminent threat to public health or safety. Appeal process should provide clear guidance on how parties may legally address negative finding re compliance.
19.	Present system does not distinguish between “good” and “bad” companies.	Transparency	As an enforcement matter, this is addressed through existing administrative procedures.
20.	Present system inappropriately emphasize pre-approvals and screening vs. facilitating compliance “up-front,” followed by effective monitoring.	Transparency	Facilitating compliance up-front is a good thing, but cannot replace the necessity of screening/evaluating the environmental acceptability of projects before they are approved. Many problems cannot be adequately addressed if they are only made known after the project has proceeded-by then it is too late to change beyond a bandaide-style approach.
21.	GCPE should play a strong role in better-informing and helping companies understand	Resources	See # 6 above.

	environmental laws and requirements.		
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**Report on Workshop Addressing
Recommendations to Improve the
Environmental Clearance Process in Jordan**

24 January, 2000

Amman, Jordan

This workshop was held as a follow-up to a previous IPC-sponsored workshop held in May, 1999, during which numerous problems with the current practice and procedures used to provide an environmental clearance for proposed investment projects in Jordan were identified. Because the earlier workshop did not identify the source of the perceived problems or address possible solutions, an additional workshop was scheduled for January 2000, the results of which are summarized herein.

The objective of this workshop was to provide a forum for open discussion of the findings of AMIR's analysis identifying the sources of the problems previously identified with the environmental clearance process and to obtain consensus approval of the proposed recommendations for change. A list of participants and the agenda for the meeting is attached.

The meeting was opened by the Director General, Investment Promotion Corporation (IPC), who thanked those in attendance for coming and expressed the importance of reaching consensus on issues that will improve Jordan's future economic well-being. Dr. Farhat Farhat, Policy Reform Coordinator, AMIR Program, provided a brief overview of AMIR and its relation to that day's workshop.

This consultant provided a brief background of the previous workshop, providing a context for the follow-up now being presented. Following this, three handouts were presented for discussion: the first addressed proposed policy and institutional changes; the second presented proposed program reforms to address the lack of transparency in the environmental clearance process; and the third was a table outlining the relationship

between the proposed changes and the problems identified at the May 1999 workshop. Copies of these handouts are attached.

The panel discussion session was chaired by Dr. Farhat. An open discussion of the handouts and proposed recommendations therein followed this consultant's presentation, a summary of which is provided below.

Workshop Discussion:

As discussions began, this consultant emphasized the need to view the proposed recommendations as a package—no single recommendation can provide a comprehensive reform of the environmental clearance process. To implement only one piece of this package, in other words, will probably allow conditions that frustrate potential investors in Jordan to continue. The recommendations were also presented as falling within three major categories of problems: Lack of Transparency; Overlap in Regulatory Authority/Need for Streamlining; and Inadequate Resources. Discussions of each recommendation are summarized below.

***Recommendation 1:** The GCEP should have institutional and budgetary autonomy, either by making it a separate ministry or by placing it outside of the ministerial structure.*

Institutional autonomy will improve licensing efficiency because: confusion over the role of the GCEP vis a vis other Ministries will be eliminated; an independent environment ministry will create a more direct line of accountability and thus easier access and increased transparency for investors.

Concerns about a serious lack of resources at the GCEP will also be addressed through an independent environment ministry. Reports bear out that the lack of technical and administrative resources, along with the need for trained staff, have contributed

significantly to GCEP's current lack of transparency. Adequately funded, the GCEP should develop internal training programs, establish general standards for competence, establish creative recruitment programs that reach talented and skilled workers, and build cooperative programs with other technical organizations to exchange expertise and resources, all of which will aid the environmental clearance process.

Discussion: GCEP's legal council stated his belief that GCEP is already an independent authority under the law. IBLA council tried to explain that because GCEP staff are public sector employees within the Ministry of Rural Affairs, they are bound to procedures stipulated by a "higher" authority and thus GCEP is not fundamentally independent from an administrative and budgetary standpoint. IBLA continued to explain how GCEP's linkage to the Ministry of Rural Affairs resulted in inefficiencies that translate into frustrations for investors trying to obtain environmental clearances. The GCEP legal council then suggested that GCEP be linked to the Prime Minister. IBLA council responded that the rising tendency to link authority directly to the Prime Minister is not a viable solution since the long-term effect is to eliminate the need for government (i.e., ministries) altogether. GCEP's legal council also stated that bureaucracy is the biggest problem GCEP faces (and that this is true for all agencies) and that its lack of a independent budget allocation also hampers its ability to function effectively. These last two points seemed to contradict his earlier assertions that "nothing's broke, so don't fix it," and in fact seem to support the recommendation presented calling for institutional, administrative and budgetary autonomy.

Dr. Farhat then asked for a vote on whether to accept the recommendation to make the GCEP an institutionally independent authority, the results of which were that no one dissented and general agreement was voiced. The recommendation was recorded as passed.

Recommendation 2: *Incorporate strengthened principles of public involvement and public access into the environmental clearance process.*

Poor transparency in the environmental clearance process owes much of its unwanted strength to the organizational problems discussed throughout this analysis. But another significant source of confusion on the part of potential investors is lack of public involvement in the decision-making process. This involvement includes access to compliance information, opportunity for public review and comment on proposed government activities affecting the public interest, and a clear public process by which negative decisions on an environmental clearance can be appealed. Specific recommendations for improving public access are provided in recommendation #6, below.

Discussion: GCEP stated its strong support for public involvement and that this was especially important with regard to carrying out the Environmental Impact Assessment (EIA) process. GCEP also stated that existing draft regulations incorporate public involvement. IBLA cautioned that EIA and Environmental Clearance are two different things (EIA is really a *part* of Environmental Clearance) and that, in other words, it's not enough to talk only about public participation with regard to EIA alone.

Following this, Dr. Farhat asked for a final vote and the recommendation passed.

Recommendation 3: *Establish a working group that includes any needed outside technical experts to institute final regulations to implement the 1995 EP law. Provide specific timetables for finalization of these rules and provide opportunity for public comment.*

Discussion: GCEP's legal council stated his opinion that the problem is not the "existence" of (or lack of) regulations, but rather a lack of "enforcing" them, because the regulations have already been drafted. The stated that the following regulations existed in some form: biodiversity, an Environmental Protection Fund, Noise Quality, Air Quality, Desertification, Natural Reserves, and Water. IBLA's pointed out the confusion with GCEP's use of the terms "issuing" vs "enforcing" and that one cannot enforce something that has yet to be issued.

Though some confusion seemed to remain on this point, despite a fairly lengthy discussion back and forth between the GCEP and the IBLA council, the recommendation received final approval when brought to a vote.

Recommendation 4: *Create a mandate for written determinations from the GCEP that fully articulate the legal basis on which it makes its decisions. This provides a public record of the decision, and a clear trigger for a formal appeal process, to be detailed in the final regulations implementing the EP law. Appropriate timelines and fees should also be evaluated and proposed by the working group.*

Discussion: The GCEP stated that it already provides a written determination. IBLA stated that this determination is not an official document, since no regulations exist to support its use, and that the information typically provided is inadequate for purposes of informing applicants and potential investors of the legal basis upon which clearance has been denied. This consultant stated some examples of the kind of information needed by investors. There was general agreement of the need for detailed written and official determinations from the GCEP and the recommendation passed.

Recommendation 5: *The role of the GCEP should remain focused on environmental protection and not include the role of facilitator of the overall licensing process, as it now does within the CLC. The role of the CLC should be the responsibility of the licensing body—be it the Ministry of Industry and Trade, or the Municipalities Engineering Department, or any other party.*

Discussion: The GCEP argued, and some other ministries agreed, that the CLC provides a technical function that does not exist elsewhere. They further argued that the role of the CLC makes the licensing process easier for investors because representatives from other ministries participate, execute site visits, etc, in a coordinated fashion, streamlining the steps that an investor would otherwise have to go through.

There was general agreement with GCEP's and other's comments and, as a result, the recommendation did not pass.

Recommendation 6: *The GCEP should develop a Public Assistance Program within its organization. This organization could serve to educate the public—including investors—about the role of the GCEP, requirements necessary for compliance with its regulations to protect the environment, and provide access to its policies and programs.*

Specific aspects of this program may include, e.g., the development of “compliance assistance materials” that aid companies in achieving compliance, such as “plain language” versions of the applicable regulations; process flowcharts; phone numbers within the GCEP that serve as a “helpline,” perhaps even one that guarantees anonymous inquiries. This working group could also evaluate opportunities to benefit from Information Technology in implementing this program, including but not limited to the use of the internet.

Discussion: Once again, the GCEP argued that it already provides guidance to investors on how to proceed with the clearance process. After some discussion back and forth, primarily between the GCEP and the IBLA, it was agreed that any additional (and probably much more detailed) guidance should be provided as part of an overall public assistance program to be developed.

The recommendation was then approved.

Other Issues/Recommendations

Dr. Farhat began a discussion of the list of problems identified at the May 1999 workshop and how the recommendations just approved related to this list (see Handout #3). Based on this discussion, the following additional recommendations were made and approved.

Recommendation 7:

Prepare a list of all activities that require an environmental clearance and make such a list available and transparent.

AMIR consultants will address this in the review and recommendations of the EP regulations, beginning with the draft EIA law.

Recommendation 8:

Study all environmental-related legislation and amend them accordingly to clearly define mandates and authorities of all environmental specialized entities.

This recommendation was suggested in order to perhaps address more clearly the confusion created by perceived overlaps in environmental authority across the different ministries in Jordan. It was agreed that the IBLA will conduct an assessment of all environment-related legislation and recommend legislative amendments as needed.

Dr. Farhat then provided closing remarks, thanking everyone for their attendance and their contribution to the activities of the day. The workshop was then concluded.

List of Participants

"Environmental Compliance Workshop"

24-Jan-00
Marriott, Amman

Guest Name	Company Name
♦ Emad Ababneh	Investment Promotion Corporation
♦ Sana' Abbadi	Investment Promotion Corporation
♦ Falah Abdallat	Ministry of Agriculture
♦ Mahmoud Abdelsalam	Ministry of Transport
♦ Ratib Abu-Sharia	Investment Promotion Corporation
♦ Gokhan Akinci	(TSG) The Services Group
♦ Irian Al-Daghestani	Jordan Valley Authority
♦ Salamah Al-Darawi	Al-Arab Al-Yawm News Paper
♦ Omar Al-Mufti	Ministry of Interior
♦ Fawaz Al-Nahar	Investment Promotion Corporation
♦ Al-Nawaiseh	Ministry of Labor
♦ Ahmad Al-Qaseer	Investment Promotion Corporation
♦ Ahmad Al-Saeed	Jordan Valley Authority
♦ Saleh Al-Sharari	General Protection for Environmental Protection
♦ Yaseen Al-Zoubi	General Corporation for Environmental Protection
♦ Fayez Alamat	Ministry of Labor
♦ Mohammad Asfour	Investment Promotion Corporation
♦ Reem Badran	Investment Promotion Corporation
♦ Tulin Bakeer	AMIR Program
♦ Muayyad Dabbas	Al-Rajwa Investments
♦ Khalil Elian	AMIR program
♦ Farhat Farhat	AMIR Program
♦ Elias Farraj	Investment Promotion Corporation
♦ Rami Hababbeh	Ministry of Agriculture
♦ Rand Hannun	International Business Legal Associates
♦ Mary Hawatmeh	Ministry of Transport
♦ Ammar Jaber	AMIR Program
♦ Omar Obeidat	International Business Legal Associates
♦ Mahmoud Obidat	Police Directorate
♦ Sameera Qadoura	AMIR Program
♦ Rita Rabadi	Ministry of Health
♦ Randa Rabadi	Ministry of Transport

IPC/AMIR Program
Workshop on Environmental Clearance Process-Jordan
January 20, 2000

Environmental Clearance Process

<i>Issue/Problem</i>	<i>Recommendation/Action Plan</i>	<i>Next Steps</i>
1. Transparency/Resources – GCEP needs additional institutional and financial support to meet its mandate under the 1995 EP law.	Re-institute the organizational structure of the GCEP such that it is made either an independent ministry for the environment or an independent entity linked to the Prime Minister (whereby the representation of the Higher Council for Protection of the Environment would be re-examined.)	
2. Transparency – Regulations implementing the 1995 EP law have not been issued publicly (some are in draft form, but have not been released). This has created a serious administrative vacuum and is the cause of much uncertainty within the investment community regarding requirements for environmental compliance.	The GCEP needs technical assistance in developing and implementing a complete set of environmental regulations. Timelines for issuance of draft and final regulations and provide for public input should be established.	AMIR consultant will review existing drafts and provide written recommendations, beginning with draft Environmental Impact Assessment regulations.
3.		

<i>Issue/Problem</i>	<i>Recommendation/Action Plan</i>	<i>Next Steps</i>
<p>Transparency –</p> <p>Investors are left in the dark about specific compliance requirements and also want an opportunity to provide input into proposed rules and to follow a clear appeal process within the GCEP, a full explanation of which is currently not available.</p>	<p>Incorporate explicit and comprehensive requirements for public participation in regulations implementing EP law.</p>	<p>AMIR consultant will develop written proposal for a public assistance program that fully addresses investor needs for access to information and the ability to participate in review and appeal of GCEP decisions.</p>
<p>4.</p> <p>Transparency –</p> <p>Investors are unable to predict the various timelines involved with obtaining an environmental clearance because time limits are not well defined or are non-existent. Also, reasons for clearance denial are not spelled out clearly for investors, inhibiting their ability to effectively participate in any appeal of a negative decision.</p>	<p>Establish time limits within the regulations for environmental determinations leading up to and including the environmental clearance itself. Establish mandate within the regulations that GCEP will issue a written notice of refusal or approval of environmental clearance. Where approval is denied, the GCEP will provide details of the legal basis upon which it makes its decision and establish a clear process for appeal within the GCEP.</p>	<p>As AMIR consultant reviews and provides recommendations on various EP regulations, timelines and requirements for written decision-making documents will be incorporated.</p>
<p>5.</p> <p>Transparency –</p> <p>Investors are unclear about what triggers the requirement for an environmental clearance.</p>	<p>Prepare a list of all activities that require an environmental clearance and make such a list available and transparent. (see EIA regulation)</p>	<p>AMIR consultant will address this in the review and recommendations of EP regulations, beginning with draft EIA law.</p>

<i>Issue/Problem</i>	<i>Recommendation/Action Plan</i>	<i>Next Steps</i>
<p>6.</p> <p>Overlap –</p> <p>Perception that other ministries continue to carry out environment-related authorities that existed prior to creation of GCEP, creating confusing overlap in efforts to obtain an environmental clearance.</p>	<p>Study all environmental-related legislation and amend them accordingly to clearly define mandates and authorities of all environmental specialized entities. (Team up a working group that includes all relevant entities).</p>	<p>IBLA will conduct assessment of all environment-related legislation and recommend legislative amendments as needed.</p>
<p>7.</p> <p>Transparency/Overlap –</p> <p>See #3 above.</p>	<p>Issue and disseminate a guide within GCEP that contain all requirements and conditions in order to obtain an environmental clearance, grounds of refusal and all activities in which an environmental clearance is required.</p>	<p>Response is same as #3 above.</p>

Policy Reforms In The Environmental Clearance Process

For Jordan to successfully address its problems with 1) lack of transparency in the environmental clearance process, 2) redundancy and overlap in current regulatory practice, and 3) inadequate resources to effectively and efficiently carryout its environmental mandate, two important policy reforms are necessary.

1. ***Institutional organization***: Give the GCPE institutional and budgetary autonomy, either by making it a separate ministry or by placing it outside of the ministerial structure. Institutional autonomy will improve licensing efficiency because:

- ❖ *confusion over the role of the GCPE vis a vis other Ministries will be eliminated;*
- ❖ *there is a more direct line of accountability and thus easier access and increased transparency for investors.*

Though under the 1995 Environmental Protection (EP) law, the General Corporation for Protection of the Environment (GCPE) is granted exclusive authority over environmental issues, its institutional location within the Ministry of Rural and Environmental Affairs (and the reporting obligations to that Ministry's Minister) creates administrative confusion for those seeking environmental clearance. Its present location further adds layers of administrative burden that hampers efficiency.

For example, under the existing structure, *proposed* environmental policy changes are decided on by the Council of Ministers, composed of officials from each Jordanian Ministry. Structured this way, non-environment-related ministerial interests can obstruct actions deemed appropriate by the GCPE. Surely, Ministries and other affected parties should have an opportunity to review and comment on proposed policy changes, but it is the role of the GCPE as the nation's environmental authority to determine what policy proposals are appropriate to present.

Resource Issues: Reports bear out that the lack of technical and administrative resources, along with the need for trained staff, have contributed significantly to the GCPE's current lack of transparency. Adequately funded, the GCPE should develop internal training programs, establish general standards for competence, establish creative recruitment programs that reach talented and skilled workers, and build cooperative programs with other technical organizations to exchange expertise and resources, all of which will aid the environmental clearance process.

Source of Funding: Presently, the 1995 EP law provides that the GCPE may accept donor monies and other public contributions to finance its GCPE's activities, along with fees for functions performed (that have yet to be established under the regulations). As a policy matter, however, the GCPE's ability to fulfill its obligations should not be subject to the uncertain receipt of public contributions because it subjects the GCPE to the pitfalls of trying to carry out an unfunded mandate.

2. ***Public Involvement:*** *Incorporate general principles of public involvement and public access into the environmental clearance process.*

Poor transparency in the environmental clearance process owes much of its unwanted strength to the organizational problems discussed throughout this analysis. But another significant source of blindness and confusion on the part of potential investors is lack of public involvement in the decision-making process. This involvement begins with general public awareness of the requirements of the process, which better access to information from the GCPE could provide. It also includes the opportunity for public review and comment on major activities proposed for government approval that significantly affect the public interest. This includes an opportunity for public input on proposed project approvals and policy or regulatory changes. Without this opportunity for public access, the chronic frustrations of an opaque decision-making process will continue to discourage potential investors and

thereby diminish the likelihood that Jordan will achieve its development goals.
Specific recommendations for improving public access are discussed in Handout #3.

Transparency

By far, lack of transparency is the most frequently cited problem with regard to gaining environmental clearances in Jordan. Based on a detailed review of Jordan's Environmental Protection (EP) law, general practice in the environmental clearance process, and interviews with a number of Jordanian officials in the public and private sector, several factors contribute to this problem.

The most significant factor is the complete absence of formal regulations to implement the 1995 Jordanian EP law. This law created a new legal entity called the General Corporation for the Protection of the Environment (GCPE), located within the Ministry of Municipal and Rural Affairs and Environment (MMRAE), which was to assume exclusive responsibility for setting standards and specifications to protect the environment. The EP law further gave the GCPE authority to monitor and enforce compliance with its standards. The absence of implementing regulations that would authorize the GCPE to fulfill its mandate has created an administrative vacuum that, by default, is being filled either by perceived discretionary actions on the part of GCPE officials and/or by falling back on pre-existing standards spread out among various other ministries in Jordan. Thus, though in existence for five years, the GCPE provides an unauthoritative presence that overlays the previous status-quo regime, and this serves only to further fragment and obfuscate an already fragmented and opaque clearance process.

Particular complaints about the existing environmental clearance practice include: uncertainty about specific environmental requirements; the abusive use of discretion on the part of GCPE officials during the clearance process; a need for time limits to establish more predictability in the process; the lack of an adequately defined appeal process to challenge any adverse decisions; and the need for the GCPE to assume a larger role in educating and informing the public about the environmental clearance process.

Also contributing to a lack of transparency is the existence of two "licensing committees," both perceived to have the similar, if not duplicate, function of approving

applications for a building license. The Central Licensing Committee (CLC), located within the GCPE, is composed of the GCPE and all relevant ministries involved with licensing. The Investment Licensing Committee (ILC), (which recently replaced the Ministry of Industry and Trade's Investment Projects Approving Committee), is located at the Investment Promotion Council (IPC) and has a smaller composition of ministries. In fact, neither committee actually approves a license, but rather serves a facilitation role in the overall process. The CLC provides a forum for all relevant ministries to present their "pre-approval" findings together in a coordinated fashion. The ILC monitors the progress of an application as it makes its way through the "pre-approval" process, which includes the need for an environmental clearance, and assists where able. In the case of the CLC, once all applications for pre-approvals have been evaluated, it passes on these findings to the Higher Regulatory Council (HRC), headed by an appointed minister and composed of various ministries, municipal authorities and private entities, for final approval or disapproval.

Recommendations

The vacuum created by the failure of GCPE to finalize its own implementing regulations needs to be rectified as soon as possible. Many of the specific complaints identified above should be addressed through the clear written articulation of the technical and procedural requirements necessary to receive an environmental clearance through GCPE.

- Establish a Working Group within GCPE to develop interim regulations. Establishing interim regulations will consolidate into the GCPE the currently fragmented process in the shortest time possible and most quickly provide investors with some guidance through the environmental clearance process until final rules can be implemented. Mandate that these interim/proposed rules be instituted within six months, perhaps using draft regulations that apparently already exist but have not been released. Set an 18-month timeline for finalization of all GCPE regulations. Follow a public process, to be determined by the GCPE that allows the affected public to comment on the proposed regulations.

- Specific recommendations for these rules include the mandate for written determinations from the GCPE that fully articulate the legal basis on which it makes its decisions. This provides a public record of the decision, and a clear trigger for a formal appeal process, to be detailed in the final regulations implementing the EP law. Appropriate timelines and fees associated with performing its mandate should also be evaluated and proposed by the Working Group.
- The role of the GCPE should remain focused on environmental protection and not include the role of facilitator of the overall licensing process, as it now does within the CLC. The role of the CLC should be the responsibility of the licensing body—be it the Ministry of Industry and Trade, or the Municipalities Engineering Department, or any other party.
- Establish a Working Group within the GCPE to develop a Public Assistance Program within its organization that will serve to educate the public—including investors--about the role of the GCPE, requirements necessary for compliance with its regulations to protect the environment, and provide public access to its policies and programs. Specific aspects of this program may include, e.g., the development of “compliance assistance materials” that aid companies in achieving compliance—such as “plain language” versions of the applicable regulations; process flowcharts; phone numbers within the GCPE that serve as a “helpline,” perhaps even one that quarantees anonymous inquiries.
- The Working Group may also consider the development of a volunteer program for small local businesses, perhaps targeting an industry that typically presents especially hard-to-handle environmental issues, whereby the GCPE provides hands-on technical assistance to approved participants. Any violations found as a result of participating in this program could have associated penalties waived—with certain exceptions, such as violations of a criminal nature.

- The Public Assistance Program Working Group should evaluate opportunities to benefit from Information Technology in implementing this program, including but not limited to the use of the Internet.

**Review and Recommendations for Changes to Jordan's Environmental Impact
Assessment By-law.**

MEMORANDUM

TO: Dr. Farhat Farhat, AMIR Program

FROM: Patience Whitten

RE: Review and Recommendations for Changes to Jordan's Environmental Impact
Assessment By-law.

DATE: February 1, 2000

As requested, I have reviewed the draft EIA By-Law provided by the General Corporation for Environmental Protection (GCEP) and have the following comments and recommendations.

1. From the standpoint of what would constitute best practice in EIA, both internationally and from a U.S. perspective (which serves as a model for EIA worldwide), the GCEP's draft EIA By-Law overall is too vague and lacks any coherent articulation of a systematic process by which to conduct an EIA review.

The By-Law needs to contain language that specifically identifies well-defined steps that make up the practice of EIA. This language would include an articulation of how EIA is to be incorporated into decision-making processes for proposed development projects; how to develop a proper scope of analysis; time limits for completing different stages of the EIA review, specific requirements of an Environmental Impact Statement, public participation in the EIA process, compliance with the EIA process, and definition of terminology specific to the EIA process. Little, if any, of this exists in the GCEP's current draft by-law.

2. I recommend the following as a preliminary outline for a reconstituted EIA By-law:

- A) Purpose, Policy, and Mandate.
- B) EIA and Ministerial Planning
- C) Scoping and the EIA Process
- D) Time Limits
- E) Environmental Impact Statement
- F) Public Participation
- G) EIA Process and Agency Decisionmaking
- H) Compliance
- I) Terminology

3. With regard to incorporating into the EIA By-law a “list” of projects subject to EIA, my recommendation is as follows.

The governing standard should be whether a project – *any* project – has the *potential* to cause significant adverse effects on the environment. Whether these impacts are *in fact* “significant” is a conclusion to be made at the end of the EIA process. All that is needed to “trigger” the EIA process is the *potential* for significant impacts. Some countries provide a list of projects or sectors that are subject to EIA. Without also including the application of a “potential for significant impacts” standard, however, a list by itself has the effect of detracting from the EIA mandate and its purpose.

In the interest of providing as much guidance to potential investors as possible, I suggest developing a combination approach—e.g., one that specifies sectors or types of projects, as well as an overall standard requiring that the potential for significant impacts be used to determine conclusively whether an EIA process should be triggered.

The GCEP’s current draft by-law includes a reasonable list of sectors, which I do not recommend changing. This list includes: industry, agriculture, commercial, construction, and housing. More specifically, the list could also include, e.g., mining, tourism, port development, roadway and other public transportation development, water and sanitation, and airport development. This list can be further filled out and may be a useful guide to investors.

I recommend that another approach be used, however, whether or not a list of projects that trigger the EIA process is applied. This approach is to develop a list of project categories that are *excluded* from EIA review. In practice, this list of “categorical exclusions,” as they are called, are identified by a determination that their potential impacts are clearly so small that the resources that go into whether EIA applies is not needed – automatically, projects that fall within these “categorical exclusions” by-pass the EIA process. This significantly helps to streamline the approval process.

I can assist in further developing this concept, including recommendations for incorporation of it into the EIA bylaw, in the time remaining on my AMIR contract.

Proposed EIA By-law for Jordan**MEMORANDUM**

To: Farhat Farhat, TSG, AMIR-Jordan

From: Patience Whitten, AIRD/EGIS

Re: Proposed EIA By-law for Jordan

Date: February 20, 2000

This memorandum accompanies the working draft of “Proposed Changes to Jordan’s Environmental Impact Assessment By-Law,” (proposed by-law) prepared on request for The Services Group as part of the U.S. AID-sponsored AMIR project. The proposed by-law is in part a follow-up to a recently completed assignment evaluating the “environmental clearance process” (clearance process) in Jordan ¹ and, in particular, ways that improved procedures will contribute towards modernizing the overall financial investment climate in this region.

Several systemic problems have been identified with regard to the environmental clearance process as it is now practiced in Jordan. These are: a lack of transparency from both an institutional (who is responsible for what) and a policy (what are the requirements for environmental clearance) standpoint; overlapping authorities, largely resulting from a lack of clearly established enforcement responsibilities; and the need to streamline the clearance process.

Several recommendations have been developed as part of an Action Plan to address and remedy these systemic problems (see earlier deliverable and appendices to TSG with regard to environmental clearance process, dated January 24, 2000). Among the more important of these recommendations is the need to establish concrete regulations that effectively and efficiently implement Jordan’s 1995 Environmental Protection law (the EP law)—regulations that currently do not exist or exist only in poorly written draft form.

The proposed by-law presented herein is designed to implement environmental impact assessment procedures in accordance with international best practice standards and in a manner that provides a predictable if not familiar EIA process for potential financial investors interested in working in Jordan. The EIA process is only one, although very important, standard that must often be met by investors and is thus a very useful one to standardize in official regulations as soon as possible.

¹ (see also February 1, 2000 memorandum to TSG regarding draft EIA by-law prepared by the government of Jordan’s General Corporation for Environmental Protection (GCEP))

Taken as a whole, the proposed by-law contained herein provides for a systematic approach to project evaluations that incorporate principles of transparency, public involvement, and time limits, all of which are critical elements to resolving the problems investors face with the clearance process in Jordan. While changes to this by-law that better suit existing conditions and realities in Jordan are no doubt inevitable and necessary, caution is urged that the substantive contributions of the various sections are not eviscerated in a manner that would partially cripple an otherwise effective program and thereby ultimately frustrate current efforts to improve the business climate for investors.

To aid in this effort, the following provides a brief rationale for the implementation of the main portions of the proposed by-law.

- *Section II: Ministerial Planning and Projects that Require an EIS.* This section establishes the process by which the need for an environmental impact statement (EIS) is determined, or whether a shorter and more brief evaluation can be applied to an investment project when attempting to obtain an environmental clearance in Jordan. The process as defined in the proposed by-law allows for a more brief environmental assessment document (EA) or a “categorical exclusion” to be applied under certain conditions and as such is designed to improve streamlining in the clearance process overall. In addition, this section provides a list of project types that normally require an EIS so as to provide investors with additional guidance as to what will be required during an EIA process. Finally, this section also makes clear what are the obligations of the project proponent (meaning the government authority responsible for project approval) for public involvement (an important element for potential investors in terms of improved transparency) and in determining the need for an EIS.
- *Section III: Scoping and the EIA process.* This section represents well-recognized rules of international best practice among EIA professionals and is essential to guaranteeing full public participation—including predictable opportunities for potential investors to participate—and the provision of complete and accurate information in the decision-making process for environmental clearance. It is, by definition, an essential element of any EIA program.
- *Section IV: Time Limits.* This section is designed to specifically provide for the establishment of time limits to guide the EIA process and to in this way remedy the need to better streamline the environmental clearance process in Jordan. In international practice, prescribed universal time limits are applied to the period for review of official draft and final EISs. Such time limits for other EIA stages, however, are not practicable in the real world; this section thus provides for Project Proponents to themselves set time limits for the various stages of EIA review as deemed appropriate to each project.

- *Section V: Environmental Impact Statement.* The EIS is the primary decision-making tool in any EIA program; thus, clearly established standards for what is required in an EIS is essential for purposes of transparency in the decision-making process. The level of detail provided within this section represents international best practice and is designed to address the critical and oftentimes controversial issues that typically arise during the development of the EIS and the practice of EIA overall. The provision of such a level of detail is meant to provide not only guidance but greater transparency and predictability for all those involved in the EIA process, including potential investors.
- *Section VI: Public Involvement.* Again, this section has been designed according to well-established international best practice standards for EIA. It is a critical section for addressing the lack of transparency in the environmental clearance process as it relates to EIA practice in Jordan, providing strict rules of government practice that bring investors and other affected parties actively into the decision-making process. This, in turn, improves accountability for all parties involved.

Finally, *please note* that the proposed by-law as now written leaves numerous references to specific section numbers blank. This was done anticipating that changes to the section numbers are forthcoming and thus it would be more efficient to fill in using the final numbers when ready.

I hope this provides a useful background to the substance behind the proposed by-law. Additional methods to ensure strong implementation and enforcement of the EIA process, and to improve capacity for this in Jordan, are available and I would be happy to discuss them with you, if so desired.

Please do not hesitate to contact me using the options below should you have any questions or comments.

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***** WORKING DRAFT ***WORKING DRAFT***WORKING DRAFT*****

**Proposed Changes To Jordan's
Environmental Impact Assessment By-Law**

(Presented in accordance with articles 15 & 34 of Point (12) of the
Environmental Protection Law, 1995)

- I. Purpose, Policy, and Mandate**
- II. EIA and Ministerial Planning**
- III. Scoping and the EIA process**
- IV. Time Limits**
- V. Environmental Impact Statement**
- VI. Public Participation**

Terminology

I.(a) Purpose.

(1) The Environmental Protection (EP) Law, 1995, establishes the rules and authority for carrying out actions necessary for the protection of the environment.

(2) Articles 15 & 34 of Point (12) of the EP law authorizes the development of Environmental Impact Assessment (EIA) procedures which ensure that accurate and high-quality information is available to public officials and citizens before decisions are made and before actions are taken that may adversely effect the quality of the human environment.

I.(b) Policy.

Any project proponent (meaning government authority responsible for providing project approval(s)) subject to this by-law shall:

- 1) Interpret and administer the policies, regulations, and public laws of Jordan in accordance with the EP law and these regulations;

- 2) Use all practicable means consistent with the requirements of the EP law to restore and enhance the quality of the human environment and avoid and minimize any possible adverse effects of their actions upon the quality of the human environment;
- 3) Integrate the requirements of the EP law with other planning and review procedures required by law or agency practice so that all such procedures run concurrently rather than consecutively;
- 4) Use the EIA process to identify and assess all reasonable alternatives to proposed projects (actions) that will avoid and minimize the adverse effects of these projects upon the quality of the human environment;

I.(c) Mandate.

Sections ??? through ??? of this by-law provide the governing rules and procedures applicable to and binding on all Ministries and other relevant government authorities for implementing the provisions of the 1995 EP law.

Ministerial Planning and Projects Requiring an EIS

1) Project Proponents shall:

a) Integrate the EIA process with other planning efforts at the earliest possible time to insure that planning and decisions reflect environmental values, thereby avoiding delays later in the decision-making process and providing for coordination among affected parties.

b) Identify environmental effects and values in adequate detail so that they can be meaningfully compared to economic and technical analyses presented in relation to the proposed project. Environmental documents and appropriate analyses shall be circulated and reviewed at the same time as other planning documents so that appropriate deference is given to the full range of values to be factored into any potential project approval.

2) In determining whether to prepare an environmental impact statement, Project Proponents shall:

a) Determine whether the proposal is one that:

- 1) Normally requires an environmental impact statement, or
- 2) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion - see Sec. VI.(2)).
- 3) Ultimately, the requirement for an EIS turns on a judgement as to whether the proposed project has the potential to cause significant impacts on the environment (see Sec. VI.(12)). In determining whether the proposal is of a type normally requiring an EIS, however, (as required in (1) above) the following list may be used to provide some guidance.

- a) construction of or significant modification to a highway, expressway, or other type of road;
 - b) construction of or significant modification to a dam or other waterworks projects;
 - c) construction of or significant modification to a railway;
 - d) construction of or modification to an airport and/or related facilities;
 - e) construction of or significant modification to a power-generating structure;
 - f) construction of or modification to domestic wastewater facilities;
 - g) port development and/or improvement projects;
 - h) construction of or significant modification to mining facilities and their operations;
 - i) construction of or significant modification to tourist-related facilities and their operations;
 - j) other construction or development projects determined to have the potential to cause significant impacts.
- b) If the proposed project is not covered by paragraph (a) of this section, prepare an environmental assessment (see section ???). The project proponent shall involve environmental organizations, relevant public officials, and the public to the extent practicable in preparing these assessments.
- c) Based on the environmental assessment, make its determination whether to prepare an environmental impact statement.
- d) Commence the scoping process (see sec. ???) if the Project Proponent will prepare an environmental impact statement.
- e) Prepare a finding of no significant impact (sec. ???) if the Project Proponent determines on the basis of the environmental assessment not to prepare an environmental impact statement.
 - 1) The project proponent shall make the finding of no significant impact available to the affected public as specified in sec. ???.
 - 2) Under limited circumstances, the Project Proponent shall make the finding of no significant impact available for public review for 30 days before the final decision on whether to prepare an environmental impact statement and before the action can begin. These circumstances include:
 - a) the proposed project is, or is closely similar to, one that normally requires the preparation of an environmental impact statement; or
 - b) the nature of the proposed project is one without precedent.

III. Scoping and the EIA process.

Project Proponents shall provide for an early and open process for determining the scope of issues to be addressed and identifying the significant issues related to a proposed action. This process shall be termed scoping. As soon as practicable after its decision to prepare an environmental impact statement and before the scoping process, the project proponent shall provide public notice of its intent to prepare and EIS (see also Sec. ???).

- a) As part of the scoping process, the Project Proponent shall:
 - 1) Invite the participation of all affected public and private entities, including citizens and non-governmental organizations (including those that may not be in accord with the proposed project on environmental grounds).
 - 2) Determine the scope (see Sec. ???) and the significant issues to be analyzed in depth in the environmental impact statement.
 - 3) Identify and eliminate from detailed study the issues that are not significant or that have been covered in recent publicly released environmental reviews. A brief justification for why any issues are not significant will be presented in the EIS. If an analysis is available elsewhere, the EIS will provide a reference to its coverage elsewhere.
 - 4) Indicate any public environmental assessments and other environmental impact statements that are being or will be prepared that are related but are not part of the scope of the impact statement under consideration.
 - 5) Indicate the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decisionmaking schedule.
- b) As part of the scoping process, the Project Proponent may:
 - 1) Set page limits on environmental documents;
 - 2) Set time limits;
 - 3) Hold scoping meetings with the affected public and private entities.
- c) The project proponent shall revise the determinations made under paragraphs (a) and (b) of this section if substantial changes are later made with respect to the proposed action, or if significant new circumstances or information arise that bear on the proposal or its impacts.

IV. Time Limits.

- 1) Project Proponents are encouraged to set time limits, in consultation with the General Corporation for Environmental Protection (GCEP), that are appropriate to individual actions (and consistent with the time intervals required by sec. ???).
 - a) The following factors should be considered in setting time limits:
 - 1) Potential for environmental harm;
 - 2) Size of the proposed action;
 - 3) State of the art of analytic techniques;
 - 4) Degree of public need for the proposed action, including the consequences of delay;

- 5) Number of persons and entities affected;
 - 6) Degree to which relevant information is known and, if not known, the time required to obtain it;
 - 7) Degree to which the action is controversial;
 - 8) Other time limits imposed on the project proponent by law.
- 2) Project Proponents may also set overall time limits or limits for each constituent part of the EIA process, consistent with sec. ???, which may include:
- a) Decision on whether to prepare an environmental impact statement;
 - b) Determination of the scope of the environmental impact statement;
 - c) Preparation of the draft environmental impact statement;
 - d) Review of any comments on the draft environmental impact statement from public and private entities;
 - e) Preparation of the final environmental impact statement;

V. Environmental Impact Statements.

1. Purpose.

The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the EP law are infused into the ongoing programs and goals of the Jordanian government. It shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment. Project Proponents shall focus on significant environmental issues and alternatives and shall reduce paperwork and the accumulation of extraneous background data. EISs shall be concise, clear, and to the point, and shall be supported by evidence that the Project Proponent has made the necessary environmental analyses. An EIS is more than a disclosure statement. It shall be used by Project Proponents in conjunction with other relevant material to plan actions and make decisions.

2) Implementation.

- a) EISs shall be concise and shall be no longer than absolutely necessary to comply with the EP law and with these regulations. Length should vary first with potential environmental problems and then with project size.
- b) EISs shall state how alternatives to the proposed project considered within it will or will not achieve the requirements of the EP law and other environmental laws and policies.
- c) The range of alternatives discussed within the EIS shall encompass those to be considered by the responsible government authority and ultimate decisionmaker.

- d) Project Proponents shall not commit resources prejudicing selection of alternatives before making a final decision on the proposed project (see also Sec. ???).
- e) EISs shall serve as the means to assess the environmental impact of proposed projects, rather than justifying decisions already made.

3. Timing.

- 1) The Project Proponent shall commence preparation of an EIS as close as possible to the time the agency is developing or is presented with a proposal (Sec. ???). so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The EIS shall be prepared early enough so that it can serve practically as an important contribution to the decision-making process and will not be used to rationalize or justify decisions already made.

4) Draft, Supplemental, and Final EISs.

- a) EISs shall be prepared in two stages and may be supplemented.
 - 1) Draft EISs shall be prepared in accordance with the scope decided upon as a result of the scoping process. If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. The Project Proponent shall make every effort to disclose and discuss all major points of view on the environmental impacts of the alternatives, including the proposed action.
 - 2) Final EISs shall respond to comments as required under Sec. ???. The Project Proponent shall discuss at appropriate points in the Final EIS any responsible opposing view that was not adequately discussed in the draft statement and shall indicate the proponent's response to the issues raised.
 - 3) Supplements to a draft or final EIS shall be required if:
 - a) the Project Proponent makes changes to the proposed action that are relevant to environmental concerns; or
 - b) there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.
 - 4) The Project Proponent shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement.

b) Format for EISs

- 1) In accordance with standard international best practice, the following format for environmental impact statements should be followed unless the Project Proponent determines that there is a compelling reason to do otherwise:
 - a) Cover sheet.

- b) Summary.
- c) Table of Contents.
- d) Purpose of and need for the proposed action.
- e) Alternatives, including the proposed action.
- f) Affected environment.
- g) Environmental consequences (see also Sec. ???).
- h) List of preparers.
- i) List of Agencies, Organizations, and persons to whom copies of the statement are sent.
- j) Index.
- k) Appendices (if any).

If a different format is used, it shall include the substance of the above paragraphs in any appropriate format.

2) **Cover Sheet.**

The one-page cover sheet shall include:

- a) A list of responsible government authorities relevant to the proposed action.
- b) The title of the proposed action that is the subject of the statement (including, where appropriate, the title(s) of other related actions), together with other jurisdictions, if applicable, where the action is located.
- c) The name, address, and telephone number of the person at the relevant government authority who can supply further information with regard to the proposed project.
- d) A designation of the statement as a draft, final, or draft or final supplement.
- e) A one-paragraph abstract of the statement.
- f) The date by which comments on the statement must be received by the responsible government authority.

3) **Summary.**

Each EIS shall contain a summary that adequately and accurately summarizes the statement. The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives to the proposed project). The summary will not normally exceed 15 pages.

4) **Purpose and Need.**

The EIS shall briefly specify the underlying purpose and need to which the Project Proponent is responding in proposing the alternatives (including the proposed action).

5) Alternatives including the proposed project.

Based on the information provided under Secs. ???, the statement should present the environmental impacts of the proposed project and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis of choice among options by the decisionmaker(s) and the public.

In this section of the EIS, the Project Proponent shall:

- a) Rigorously explore and objectively evaluate all reasonable alternatives. For alternatives that were eliminated from detailed study, the statement shall briefly discuss the reasons for which they were eliminated.
- b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.
- c) Include alternatives not within the jurisdiction of the government authority responsible for project approval.
- d) Include the alternative of No Action.
- e) Identify the preferred alternative, if it exists, in the draft EIS, and identify such alternative in the final EIS unless otherwise prohibited by law.
- f) Include appropriate mitigation measures.

6) Affected Environment.

The EIS shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than necessary to understand the effects of the alternatives. Data and analyses in the statement shall be commensurate with the importance of the impact. Responsible authorities shall avoid useless bulk in statements and shall concentrate effort and attention on important issues.

7) Environmental Consequences.

This section shall form the scientific and analytic basis for the comparison of alternatives. This discussion shall include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects that cannot be avoided should the proposed project be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources that would result from the project. This section should not duplicate discussions under Sec. ??? (alternatives). It shall include the following:

- a) Direct effects and their significance (see Sec. ???).
- b) Indirect effects and their significance (see Sec. ???).
- c) Possible conflicts between the proposed project and the objectives of other proposed land-use plans, policies, and controls for the area concerned (see Sec. ??).
- d) The environmental effects of alternatives including the proposed project.
- e) Energy requirements and conservation potential of various alternatives and mitigation measures.
- f) Urban quality, historic and cultural resources, and the design of the built environment.
- g) Any means not yet addressed to mitigate adverse environmental impacts.

8) List of Preparers.

The EIS shall list the names, together with their qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the EIS or significant background papers.

9) Appendix.

Any appendix to an EIS shall be circulated with the EIS or be readily available upon request.

10) Circulation of the EIS.

In accordance with international best practice standards, the relevant government authority shall circulate the entire draft and final EIS, except for certain appendices as provided for in 9) above. If the EIS is unusually long, the government authority may circulate the summary instead, except that the entire statement shall in all cases be furnished to:

- a) Any Jordanian government authority that has jurisdiction by law or special expertise with respect to any environmental impact involved and any appropriate municipal or other government authority authorized to develop and enforce environmental standards.
- b) The private applicant, if any.
- c) Any person, organization, or government entity requesting the entire EIS.
- d) In the case of a final EIS, any person, organization, or government entity that submitted substantive comments on the draft EIS.

If the responsible government authority circulates the summary and thereafter receives a timely request for the entire statement and for additional time to

comment, the time for that requestor only shall be extended by at least 15 working days beyond the minimum period.

11) Tiering.

The government authority responsible for administering the EIA process is encouraged to tier its EIS with any related proposal in order to eliminate repetitive discussions of the same issues and to focus on those issues that are ripe for a decision at each level of environmental review (e.g., a programmatic EIS that is then followed by an EIS on a specific project that is part of the program previously evaluated). In this case the subsequent statement need only summarize the issues discussed in the broader statement and incorporate relevant sections by reference into the project-specific EIS. The subsequent statement shall indicate where the earlier document is available.

12) Incorporation of information by reference into an EIS.

Project Proponents shall incorporate material into an EIS by reference when the effect will be to cut down on bulk without impeding proper public review of the proposed project. The incorporated material shall be cited in the statement and its content briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. The exception to this is material based on proprietary data that is itself not available for review and comment.

13) Incomplete or unavailable information.

When there is incomplete or unavailable information relevant to a complete understanding of the potential for significant adverse effects on the human environment in an EIS, the Project Proponent shall always make clear that such information is lacking.

- a) If the incomplete information relevant to reasonably foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the Project Proponent shall include the information in the EIS.
- b) If the information relevant to reasonably foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known, the Project Proponent shall include within the EIS the following:
 - 1) A statement that such information is incomplete or unavailable;
 - 2) A statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment;

- 3) An evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community.
- c) For the purposes of this section, “reasonably foreseeable” includes impacts that have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.

14) Cost-benefit analysis.

If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered for the proposed project, it shall be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences. In such cases, the statement shall discuss the relationship between that analysis and any analyses of unquantified environmental impacts, values, and amenities. For purposes of complying with the EP law, the weighing of the merits and drawbacks of various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations.

15) Scientific accuracy and methodology.

The responsible government authority shall insure the professional integrity, including scientific integrity, of the analysis in the EIS. The EIS shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions made in the statement. This discussion may be included as an appendix.

16) Coordination with other requirements.

The draft EIS shall list all government permits, licenses, and other entitlements that must be obtained in implementing the proposal. If it is uncertain whether such approvals are necessary, the draft EIS shall so indicate.

VI. Public Participation.

1) Public Notification.

The Project Proponent shall:

- a) Provide public notice of meetings (scoping meetings, etc), public hearings, and the availability of relevant documents so as to inform those persons or entities who may be interested or affected. This public notice shall take the form of the following:
 - 1) Publication in local newspapers or other papers of general circulation.
 - 2) Notice to potentially interested community organizations.

- 3) Publication in newsletters that may be expected to reach potentially interested persons.
- 4) Direct mailing to owners and occupants of nearby or affected property.
- 5) Posting of notice on and off-site in the area where the project is to be located.
- 6) Hold or sponsor public hearings or public meetings when appropriate.
 - a) Appropriate timing in this case exists when there is substantial controversy concerning the proposed project or substantial interest in holding a hearing.
 - b) If an existing draft EIS is to be considered at a public hearing or public meeting, the Project Proponent should make the statement available to the public at least 15 days in advance of the meeting.
 - c) Information and materials (such as the draft EIS) to be made available to the public shall be done so free of charge where practicable, or at a fee that does not exceed the cost of actually reproducing the materials.

2) Inviting comments.

Following the preparation of a draft EIS and before preparing a final EIS, the Project Proponent shall

- a) Obtain comments from any relevant government authority with jurisdiction by law or special expertise with respect to any environmental impact that may result from the proposed project.
- b) Request comments from any entity that has requested that it receive statements on projects of the kind being proposed.
- c) Request comments from the applicant, if any.
- d) Request comments from the public and in particular solicit comments from those persons or organizations who may be interested or affected by the proposed project.

3) Response to comments.

- a) The Project Proponent, in preparing the final EIS, shall assess and consider public comments received on the proposed project both individually and collectively, and shall respond by one of the means listed below, stating its response in the final EIS.
 - 1) Modify alternatives, including the proposed project.
 - 2) Supplement, improve, or modify its analyses.
 - 3) Make factual corrections.
 - 4) Explain why the comments do not warrant further response, citing the sources, authorities, or reasons that support the Project Proponent's position.

- b) All substantive comments received on the draft EIS should be attached to the final EIS, whether or not a comment is thought to merit individual discussion by the Project Proponent in the text of the EIS.
- 3) Record of Decision.

At the time of its decision, the Project Proponent shall prepare a concise public record of its decision. The record shall:

- a) State what the decision was.
 - b) Identify all alternatives considered by the Project Proponent in reaching its decision, specifying which of those alternatives considered are environmentally preferable. The Project Proponent shall identify and discuss all factors, including economic and technical factors, and any essential considerations of national policy that were balanced by the Proponent in making its decision and state how those considerations were weighed in its decision.
- 4) Implementing the Decision.

Any mitigation of project impacts or other conditions established in the EIS or committed to as part of the final decision shall be implemented by the Project Proponent or other appropriate authority.

VI. Terminology.

- 1) “Affecting” means will or may have an effect on.
- 2) “Categorical exclusion” means a category of actions that do not individually or cumulatively have a significant effect on the human environment and for which, therefore, an environmental assessment nor and environmental impact statement is required.
- 3) “Cumulative Impact” is the impact on the environment that results from the incremental impact of the project when added to other past, present, and reasonable foreseeable future actions regardless of what government authority or private entity or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.
- 4) “Effects” include:
 - a) Direct effects, which are caused by the action and occur at the same time and place.
 - b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonable foreseeable. Indirect effects may

include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

Effects and impacts as used in these regulations are synonymous. Effects includes ecological (e.g., effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions that may have both beneficial and detrimental effects, even if on balance the Project Proponent believes that the effect will be beneficial.

5) “Environmental Assessment”

- a) Means a concise public document prepared by the Project Proponent that briefly provides sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.
 - b) Shall include brief discussions of the need for the proposal, of alternatives as required by Sec. ??, of the environmental impacts of the proposed project and alternatives, and a listing of agencies and persons consulted.
- 6) “Statement” means environmental impact statement.
- 7) “Project Proponent” means the principal government authority responsible for providing project approval(s).
- 8) “Finding of No Significant Impact” means a document prepared by the Project Proponent briefly presenting the reasons why a proposed project will not have a significant effect on the human environment and for which an environmental impact statement will therefore not be required. It shall include the environmental assessment or a summary of it and not any other relevant environmental documents related to it.
- 9) “Human environment” means the natural and physical environment and the relationship of people with that environment. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the EIS will discuss all of those effects on the human environment.
- 10) “Mitigation” includes
- a) Avoiding the impact altogether.
 - b) Minimizing impacts by limiting the degree or magnitude of the project’s implementation.

- c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
 - d) Reducing or eliminating the impact over time.
 - e) Compensating for the impact by replacing or providing substitute resources or environments.
- 11) “Scope” consists of the range of actions, alternatives, and impacts to be considered in an environmental impact statement. To determine the scope of an EIS, Project Proponents shall consider:
- a) “Connected actions,” meaning actions that are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:
 - 1) automatically trigger other actions that may require EISs.
 - 2) cannot or will not proceed unless other actions are taken previously or simultaneously.
 - 3) are interdependent parts of a larger action and depend on the larger action for their justification.
 - b) “Cumulative actions,” which when viewed with other proposed actions have cumulatively significant impacts and therefore should be discussed in the same impact statement.
 - c) “Similar actions,” or projects, which when viewed with other reasonably foreseeable or proposed actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. A Project Proponent should review these actions together in the same EIS when the best way to evaluate their combined effects is to treat them under one analysis.
 - d) Alternatives, including
 - 1) No Action
 - 2) Other reasonable courses of action.
 - 3) Mitigation measures (not included in the proposed action).
 - e) Impacts:
 - 1) Direct
 - 2) Indirect
 - 3) Cumulative
- 12) “Significant” requires a consideration of both context and intensity:
- a) *Context*: The significance of an action must be evaluated in several contexts, including society as a whole, the affected region, the affected interests, and the locality. Both long-term and short-term effects are also relevant.
 - b) *Intensity*:

- 1) A significant effect may exist even if the Project Proponent believes that on balance the effect will be beneficial.
 - 2) The degree to which the proposed project affects public health or safety.
 - 3) Unique characteristics of the project area, such as proximity to historic or cultural resources, park lands, prime farm lands, wetlands, or other ecologically critical areas.
 - 4) The degree to which the potential impacts are likely to be highly controversial.
 - 5) The degree to which the potential impacts are highly uncertain or involve unknown risk.
 - 6) The degree to which the proposed project may establish a precedent for future actions with significant effects or represents a decision in principal about a future consideration.
 - 7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into component parts.
 - 8) The degree to which the proposed project may adversely affect significant scientific, cultural, or historical resources.
 - 9) The degree to which the proposed project may adversely affect or threaten an endangered or threatened species or its habitat.
 - 10) Whether the action threatens to violate Jordanian law or other requirements imposed to protect the environment.
- 13) “Proposed project” and “proposed action” as used in this by-law are synonymous.
- 14) “GCEP” means the General Corporation for Environmental Protection.
- 15) “Proposal” exists at that stage in the development of a project when the Project Proponent is actively preparing to make a decision on one or more alternative means of implementing a proposed project and the effects of implementing these alternatives can be meaningfully evaluated.